

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
By: ANDREW M. McNEELA
Assistant United States Attorney
86 Chambers Street
New York, New York 10007
Tel. No.: (212) 637-2741
Fax No.: (212) 637-2786

 ORIGINAL

07 CV 6891

WP4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JESUS GARICA, as Administrator of, :
the estate of ANGEL GARCIA, :
deceased, :

Plaintiff, :

-against- :

ANEES AHMAD, M.D., JOHN PODESZWA, :
M.D., and ORANGE REGIONAL MEDICAL :
CENTER, :

Defendants. :
-----X

NOTICE OF REMOVAL

07 Civ. _____

Index No. 8326/07 S.D. OF N.Y.
(Supreme Court of the
State of New York)

2007 JUL 31 PM 3:47

FILED
U.S. DISTRICT COURT

Defendant Anees Ahmad, M.D. ("defendant"), by and through
his attorney, Michael J. Garcia, United States Attorney for the
Southern District of New York, hereby removes the above-captioned
action to the United States District Court for the Southern
District of New York. The grounds for removal are as follows:

1. On or about February 27, 2007, plaintiff Jesus Garcia,
as administrator of the estate of Angel Garcia, commenced an
action in the Supreme Court of the State of New York, Bronx
County, by filing a Summons and Verified Complaint under index
number 8326-07. A true and correct copy of the Summons and
Verified Complaint is attached hereto as Exhibit A.

2. Pursuant to the Public Health Service Act, 42 U.S.C. § 201 et seq., as amended by the Federally Supported Health Centers Assistance Act of 1995, defendant's employer, Middletown Community Health Center Inc. ("Middletown"), was deemed to be an employee of the United States Government on July 1, 2001. See 42 U.S.C. § 233(a), (g)-(n).

3. At the time of the events alleged in the complaint, defendant was an employee of Middletown acting within the scope of his employment and is therefore deemed to be an employee of the United States Government. See 42 U.S.C. § 233(a), (g)-(n).

4. The Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 1402(b), 2401(b) and 2671-2680, provides the exclusive remedy with respect to plaintiff's claims against defendant. See 42 U.S.C. § 233(a).


5. This action may be removed to this Court pursuant to 42 U.S.C. § 233(c) and 28 U.S.C. § 2679(d)(2) because: (i) trial has not yet been had of this action; and (ii) this is a civil action brought against a party deemed to be an employee of the United States Government for purposes of the FTCA. A copy of the Certification of Michael J. Garcia, United States Attorney for the Southern District of New York, dated June 28, 2007, certifying that defendant is an employee of the United States for purpose of plaintiff's claims against him, is attached hereto as

Exhibit B.

Dated: New York, New York
July 30, 2007

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for Defendant
Anees Ahmad, M.D.

By: 
ANDREW M. MCNEELA
Assistant United States Attorney
86 Chambers Street
New York, New York 10007
Tel. No.: (212) 637-2741
Fax No.: (212) 637-2786

TO: Matthew J. Maiorana, Esq.
Queller, Fisher, Dienst, Serrins,
Washor, & Kool, LLP
Attorneys for Plaintiff
233 Broadway
New York, NY 10279

Martin Clearwater & Bell
245 Main Street - 5th Floor
White Plains, N.Y. 10601